

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6731 of 1996

to

SPECIAL CIVIL APPLICATION No 6740 of 1996

with

SP. C. A. Nos 7690, 7691, 7692 & 6953 of 1996

and

SP. C. A. Nos 1240, 1480, 1481, 1776 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PATEL SEJAL BHAILALBHAI

Versus

DISTRICT PRIMARY EDUCATION OFFICER

Appearance:

MS MITABEN for MR PS PATEL & MR KB PUJARA for Petitioner
MR ANANT DAVE for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/04/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The respondent issued advertisement on 2-1-1992 inviting applications for the posts of Primary Teachers in Kheda District. The petitioners, being S.S.C. and P.T.C., and being eligible and qualified, applied for the same. In July, 1992, the petitioners and other candidates were called for interview and interviewed by the duly constituted Selection Committee and the select list was prepared. However, the petitioners were orally told that their names are appearing in the select list and that appointment orders will be issued in the serial order, but the appointments were not given to them though the vacancies were in existence. Feeling aggrieved of the action of the respondent they filed these Sp. Civil Applications before this Court.

3. In the reply, the respondents have come up with a case that the applications were invited for the appointments on the post of Primary Teachers vide advertisement dated 2-1-1992. It has further been admitted that the petitioners had applied in pursuance of the said advertisement and they were also called for interview by the Kheda District Primary Education Staff Selection Committee. However, it is stated that the select list was not prepared. The reason given for not preparing the select list is that in the Sp. Civil Application No.5703/92 (that is wrongly mentioned as 5703/95 in the reply) this Court has ordered, " Rule and notice of interim relief returnable on 9-9-1992. Ad-interim relief in terms of Para 14 (C) and (D) of the petition upto 9-9-1992. D.S. permitted."

4. The interim relief sought in Para 14 (C) and (D) in Sp. Civil Application No.5703/92 are as under:

14(C) To direct the respondent by interim injunction to give appointment to the petitioners to the post of Primary Teachers in the District of Kheda, forthwith by operating the select list prepared pursuant to the advertisement at Annexure 'A' during the pendency of admission, hearing and final disposal of this petition.

14(D) To restrain the respondent by ad-interim injunction from preparing and/or finalising the new select list of Primary Teachers and also to restrain the respondent from making any appointment on the basis of new select list, during the pendency of admission, hearing and final disposal of this petition.

So as per the case of the respondents, the Kheda District Education Committee was restrained from doing the things, namely, (i) in case of select list being finally prepared, no appointments to be granted in pursuance thereto, (ii) in case if the select list is not finalised, the same should not be so done, and (iii) in case select list is not prepared, the same should not be prepared.

5. In pursuance of the order of this Court, the Committee had, vide resolution No.18 dated 9-9-1992, resolved to stay further procedure of preparing the select list, so also finalisation of the same and also granting the appointments with respect to the same. So it is the case of the respondents that this Court had restrained them from making any appointment in case, select list is finally prepared and also they were restrained from finalising the select list if the same was not finalised, and also from preparing the select list, if the same was not prepared. So they have not prepared the select list, and as such, there is no question of giving appointment to the petitioners.

6. Today this Court has decided the Special Civil Application No.5703/92 and cognate matters. The counsel for the petitioners and the respondents appearing in the aforesaid Sp. Civil Application and cognate matters have admitted before this Court that all the petitioners, therein, have been given the appointments. Those Sp. Civil Applications have been dismissed on the statement made by the counsel for the respondents, therein, and interim relief granted by this Court has been vacated. In the present case, the select list has not been prepared by the respondents only on the ground that this Court had restrained them from doing so by granting interim relief in Sp. Civil Application No.5703/92, but that interim relief has already been vacated, and as such, nothing now remains in the way of the respondents to proceed with the selection in pursuance of the advertisement dated 2-1-1992 in accordance with law.

7. In the result, all these Special Civil Applications are disposed of with the direction that the respondents are at liberty to finalise the select list in pursuance of the advertisement dated 2-1-1992 and to make the appointments in accordance with law. Rule is made absolute in the aforesaid terms with no order as to costs.

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